

# EXHIBIT A

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	:	Cr. No. 02-10259-PBS
	:	
	:	
V.	:	Courtroom No. 13
	:	1 Courthouse Way
	:	Boston, MA 02210-3002
ELVIN MERCADO	:	9:00 a.m., Thursday
	:	July 22, 2003

Evidentiary Sentencing  
Day Two

Before: THE HONORABLE PATTI B. SARIS,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

Peter Levett, Assistant United States Attorney,  
1 Courthouse Way, Suite 9200, Boston, MA 02210-3002,  
on behalf of the Government.

Rappaport & Delaney (by Steven J. Rappaport, Esquire),  
228 Central Street, Lowell, MA 01852,  
on behalf of the Defendant.

Marie L. Cloonan  
Federal Court Reporter  
1 Courthouse Way - Room 7200  
Boston, MA 02210 - 617-439-7086  
Mechanical Steno - Transcript by Computer

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1 (Defendant Exhibit A, Criminal Docket - Brandon Greenwood,  
2 admitted into evidence.)

3 (Defendant Exhibit B, Transcript of Detention Hearing held  
4 on 10-16-02, admitted into evidence.)

5 MR. RAPPAPORT: Other than that, there is no case  
6 in chief.

7 THE COURT: Okay. Now, here's the issue.

8 I have to leave here at five of one. I had no idea  
9 this hearing was going to go so long today. So, we'll see  
10 what we can do before then. Otherwise, we'll just have to  
11 finish it this afternoon.

12 So, your recommendation -- let me just first say  
13 that I think the total offense level -- let me just say  
14 this. I find that the amount of the drugs is under a  
15 hundred grams. The government is not pressing that issue as  
16 I understand it. And, there is concern about the criminal  
17 history category. But, at least I think everyone agrees  
18 that he is a career offender on the face of the record. The  
19 question is whether I depart, what we'll discuss in a  
20 second. But, the total offense level 31, the criminal  
21 history category is 6, which means the range is 188 to 235  
22 months imprisonment, 72 months of supervised release,  
23 \$15,000 to \$20 million fine and a thousand dollar special  
24 assessment.

25 Is that correct?

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1 MS. FOSTER: That's correct.

2 THE COURT: All of that is correct.

3 All right. So, we move on, now, essentially to the  
4 government's recommendation and, then, I'll hear a motion  
5 for downward departure. And, then, we'll come back to you.

6 What's your recommendation?

7 MR. LEVITT: Well, your Honor, the government  
8 recommends that the defendant be sentenced within the  
9 guideline range. Primarily, the government would want to be  
10 heard on the departure issue.

11 THE COURT: You're wherever I want to be?

12 MR. LEVITT: Yes, your Honor, within the guideline  
13 range. I mean, my view is that it should be in the middle  
14 of the guideline range, rather than top or bottom.

15 THE COURT: All right. Thank you.

16 Mr. Rappaport, here's the issue at this point. The  
17 only issue is whether it's a 6 or a 5.

18 MR. RAPPAPORT: I understand, your Honor.

19 THE COURT: All right.

20 So, do you want to make your argument on that now  
21 and --

22 MR. RAPPAPORT: Yes. Very briefly, Judge -- at  
23 least as brief as I can be.

24 My actual concern when I took a look at this was I  
25 had a 17-year-old kid who, back in 1994, three days apart,